

AMENDED IN ASSEMBLY JUNE 13, 2007

AMENDED IN SENATE APRIL 24, 2007

SENATE BILL

No. 528

Introduced by Senator Aanestad

February 22, 2007

An act to amend Section 1363.05 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

SB 528, as amended, Aanestad. Common interest developments: open meetings.

Existing law requires that a common interest development be managed by an association. The Common Interest Development Open Meeting Act provides that any member of the governing association of a common interest development may attend meetings of the board of directors of the association, except as specified. The act also requires that notice of the time and place of a meeting be given to members at least 4 days prior to the meeting, except in the case of an emergency meeting, as described.

This bill would require the above notice to contain the agenda for the meeting. It would prohibit the board of directors from discussing or taking action on any ~~subject-matter~~ *item* at a nonemergency meeting unless the ~~subject-matter~~ *item* was placed on the agenda included in the notice. The bill would provide that these provisions do not prohibit a resident who is not a member of the board from speaking on issues not on the agenda. *The bill would also permit the board of directors, its managing agent, or its other agents or staff, to briefly respond to statements made or questions posed by a person speaking at a meeting, ask a question for clarification, make a brief announcement, or make*

a brief report on his or her own activities, as specified. The bill would further permit the board of directors or a member of the board of directors, subject to rules or procedures of the board of directors, to provide a reference or factual information to its managing agent or other agents or staff, request its managing agent or other agents or staff to report back to the board of directors at a subsequent meeting or to place a matter of business on a future agenda, or direct its managing agent or other agents or staff to perform administrative tasks that are necessary to carry out these provisions. The bill would ~~also~~ make technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1363.05 of the Civil Code is amended
2 to read:
3 1363.05. (a) This section shall be known and may be cited as
4 the Common Interest Development Open Meeting Act.
5 (b) Any member of the association may attend meetings of the
6 board of directors of the association, except when the board
7 adjourns to executive session to consider litigation, matters relating
8 to the formation of contracts with third parties, member discipline,
9 personnel matters, or to meet with a member, upon the member's
10 request, regarding the member's payment of assessments, as
11 specified in Section 1367 or 1367.1. The board of directors of the
12 association shall meet in executive session, if requested by a
13 member who may be subject to a fine, penalty, or other form of
14 discipline, and the member shall be entitled to attend the executive
15 session.
16 (c) Any matter discussed in executive session shall be generally
17 noted in the minutes of the immediately following meeting that is
18 open to the entire membership.
19 (d) The minutes, minutes proposed for adoption that are marked
20 to indicate draft status, or a summary of the minutes, of any
21 meeting of the board of directors of an association, other than an
22 executive session, shall be available to members within 30 days
23 of the meeting. The minutes, proposed minutes, or summary
24 minutes shall be distributed to any member of the association upon

1 request and upon reimbursement of the association's costs for
2 making that distribution.

3 (e) Members of the association shall be notified in writing at
4 the time that the pro forma budget required in Section 1365 is
5 distributed, or at the time of any general mailing to the entire
6 membership of the association, of their right to have copies of the
7 minutes of meetings of the board of directors, and how and where
8 those minutes may be obtained.

9 (f) Unless the time and place of meeting is fixed by the bylaws,
10 or unless the bylaws provide for a longer period of notice, members
11 shall be given notice of the time and place of a meeting as defined
12 in subdivision (j), except for an emergency meeting, at least four
13 days prior to the meeting. Notice shall be given by posting the
14 notice in a prominent place or places within the common area and
15 by mail to any owner who had requested notification of board
16 meetings by mail, at the address requested by the owner. Notice
17 may also be given, by mail or delivery of the notice to each unit
18 in the development or by newsletter or similar means of
19 communication. The notice shall contain the agenda for the
20 meeting.

21 (g) An emergency meeting of the board may be called by the
22 president of the association, or by any two members of the
23 governing body other than the president, if there are circumstances
24 that could not have been reasonably foreseen which require
25 immediate attention and possible action by the board, and which
26 of necessity make it impracticable to provide notice as required
27 by this section.

28 (h) The board of directors of the association shall permit any
29 member of the association to speak at any meeting of the
30 association or the board of directors, except for meetings of the
31 board held in executive session. A reasonable time limit for all
32 members of the association to speak to the board of directors or
33 before a meeting of the association shall be established by the
34 board of directors.

35 ~~(i) The~~
36 (i) (1) *Except as described in paragraphs (2) and (3), the*
37 board of directors of the association may not discuss or take action
38 on any ~~subject-matter item~~ *subject-matter item* at a nonemergency meeting unless the
39 ~~subject-matter item~~ *subject-matter item* was placed on the agenda included in the notice
40 that was posted and distributed pursuant to subdivision (f). This

1 subdivision does not prohibit a resident who is not a member of
2 the board from speaking on issues not on the agenda.

3 *(2) Notwithstanding paragraph (1), a member of the board of*
4 *directors, a managing agent of the board of directors, or other*
5 *agents or staff of the board of directors, may do any of the*
6 *following:*

7 *(A) Briefly respond to statements made or questions posed by*
8 *a person speaking at a meeting as described in subdivision (h).*

9 *(B) Ask a question for clarification, make a brief announcement,*
10 *or make a brief report on his or her own activities, whether in*
11 *response to questions posed by a member of the association or*
12 *based upon his or her own initiative.*

13 *(3) Notwithstanding paragraph (1), the board of directors or a*
14 *member of the board of directors, subject to rules or procedures*
15 *of the board of directors, may do any of the following:*

16 *(A) Provide a reference to, or provide other resources for factual*
17 *information to, its managing agent or other agents or staff.*

18 *(B) Request its managing agent or other agents or staff to report*
19 *back to the board of directors at a subsequent meeting concerning*
20 *any matter; or take action to direct its managing agent or other*
21 *agents or staff to place a matter of business on a future agenda.*

22 *(C) Direct its managing agent or other agents or staff to perform*
23 *administrative tasks that are necessary to carry out this*
24 *subdivision.*

25 (j) As used in this section, “meeting” includes any congregation
26 of a majority of the members of the board at the same time and
27 place to hear, discuss, or deliberate upon any item of business
28 scheduled to be heard by the board, except those matters that may
29 be discussed in executive session.